

ORDINANCE NO. 2801 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AMENDING GLENDALE CITY CODE, CHAPTER 26 (OFFENSES—MISCELLANEOUS), ARTICLE III (OFFENSES AGAINST PUBLIC SAFETY AND ORDER) BY ADDING A NEW DIVISION 5 ENTITLED “FIREWORKS” PROHIBITING THE USE OF FIREWORKS WITHIN THE CITY; PROVIDING FOR THE REPEAL OF CONFLICTING CODE PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That Glendale City Code, Chapter 26 (Offenses—Miscellaneous), Article III (Offenses Against Public Safety and Order) is hereby amended by adding a new Division 5 entitled “Fireworks” to read as follows:

DIVISION 5. FIREWORKS

Sec. 26-70.1. Purpose.

The City Council hereby recognizes that the desert environment of Arizona has unique fire risks and adopts this division to enhance the public safety and welfare of its citizens and the community by prohibiting the use of fireworks within the city.

Sec. 26-70.2. Definitions.

The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City Permit: A permit issued by the City Fire Chief or designee.

Display fireworks: Those fireworks defined by Arizona Revised Statutes § 36-1601.

Expenses of an emergency response: The reasonable costs directly incurred by public agencies including but not limited to the City Fire, Police and Public Works Departments or other first responders including but not limited to private ambulance companies that make an appropriate emergency response to an incident.

[Additions are indicated by underline; deletions by ~~strikeout~~.]

Fireworks: Display fireworks, consumer fireworks and permissible consumer fireworks as defined by Arizona Revised Statutes § 36-1601.

Novelty items: Federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices and sparklers.

Permissible consumer fireworks: Those fireworks as defined by Arizona Revised Statutes § 36-1601 that may be sold within a municipality even where the use of those items has been prohibited.

Reasonable Costs: The costs of providing police, fire fighting, clean-up, rescue and emergency medical services at the scene of an incident and the salaries of the persons who respond to the incident.

Supervised show: A monitored performance of display fireworks open to the public authorized by city permit.

Sec. 26-70.3. Fireworks prohibited; exceptions.

- (a) The use of fireworks of any kind within the city is prohibited.
- (b) Nothing in this section or division shall be construed to prohibit the use of novelty items or the carrying out of a supervised show or possession of display fireworks authorized by city permit.

Sec. 26-70.4. Sale of Fireworks.

- (a) No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person who is under sixteen years of age.
- (b) No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with state law.
- (c) No person shall sell, possess, authorize or manufacture consumer or display fireworks unless authorized by state law or city permit.

Sec. 26-70.5. Posting of signs by persons engaged in the selling of permissible consumer fireworks; civil penalty.

- (a) Prior to the sale of permissible consumer fireworks, every person engaged in the selling of permissible fireworks shall prominently display signs indicating the following:

[Additions are indicated by underline; deletions by ~~strikeout~~.]

- (1) The use of all fireworks, including permissible consumer fireworks as defined under state law, within the City of Glendale, is prohibited except as authorized by Fire Department permit.
- (2) Consumer fireworks authorized for sale under state law may not be sold to persons under the age of 16.

(b) Signs required under this section shall be placed at each cash register and in each area where fireworks are displayed for sale.

(c) In accordance with state law, the City Fire Chief or designee shall develop regulations concerning the size and color of the required signs and develop a model sign. The required sign regulations and model sign shall be posted on the City's website and filed with the City Clerk's office.

(d) Failure to comply with subsections (a) or (b) above is a civil offense punishable by a minimum fine of \$250.00.

Sec. 26-70.6. Authority to enforce violations of this division; means of enforcement.

(a) The City Fire Chief or designee, a Glendale police officer or the City Attorney may issue civil complaints to enforce violations of this division designated as civil offenses.

(b) Any person authorized pursuant to this section to issue a civil complaint may also issue a notice of violation specifying actions to be taken and the time in which they are to be taken to avoid issuance of a civil or criminal complaint.

(c) A Glendale police officer or the City Attorney may issue criminal complaints to enforce this division.

Sec. 26-70.7. Penalties.

The penalty for violating any prohibition or requirement imposed by this division is a class one misdemeanor with a minimum fine of \$275.00 unless another penalty is specifically provided for.

Sec. 26-70.8. Liability for emergency responses related to use of fireworks.

(a) A person who uses, discharges or ignites fireworks is liable for the expenses of any emergency response that is required by such use, discharge or ignition. The fact that a person is convicted or found responsible for a violation(s) of this division is prima facie evidence of liability under this section.

[Additions are indicated by underline; deletions by ~~strikeout~~.]

(b) The expenses of an emergency response are a charge against the person liable for those expenses pursuant to subsection (a) of this section. The charge constitutes a debt of that person and may be collected proportionately by the public agencies or other first responders that incurred the expenses. The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed.

SECTION 2. That the following conflicting Glendale City Code provisions are hereby amended to ensure consistency with this Ordinance and compliance with Arizona state law regulating fireworks: Glendale City Code Secs. 21-44 and 21-173. The amendments shall read as follows:

Sec. 21-44. Prohibited sales.

No person who is required to obtain a special regulatory license shall at any time display, sell, trade or otherwise distribute any of the following items within the city:

...

- (4) ~~Fireworks;~~

...

Sec. 21-173. Prohibited merchandise; all markets or operations.

It shall be unlawful for any person to sell, exchange, display, offer for sale or barter at any open-air market or park-and-swap operation any of the following items of personal property:

- (1) Any live animal;
- (2) Ammunition, blasting agents, liquid petroleum gases or other combustible gases, any type of display fireworks, explosives, acids, caustics, oxidizing agents or any flammable liquids, including but not limited to, gasoline, kerosene, acetone, thinners and solvents.
- (3) The sale of permissible consumer fireworks is allowed. Before engaging in the sale of permissible consumer fireworks, every person engaged in selling, or attempting to sell permissible consumer fireworks, shall:
 - a. Comply with the Glendale City Code, Chapter 21, Licenses, Taxation, and Miscellaneous Business Regulations;

[Additions are indicated by underline; deletions by ~~strikeout~~.]

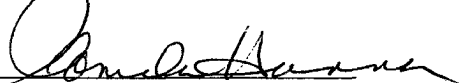
- b. Obtain an inspection certificate from the Glendale Fire Department verifying compliance with all applicable state laws pertaining to the storage, transportation, and sale of permissible consumer fireworks; and
- c. Openly and conspicuously post color copies of inspection certificates at each cash register and in each area where fireworks are displayed for sale.

SECTION 3. That the terms and provisions of this Ordinance are severable and if any section, subsection, sentence, clause, phrase or portion of this Ordinance, or any part of the Glendale City Code adopted herein by reference, is for any reason held to be invalid, unenforceable or unconstitutional by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in effect.

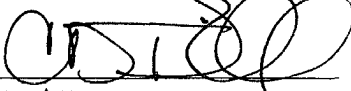
PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 24th day of April, 2012.


MAYOR

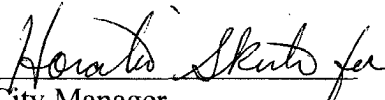
ATTEST:


City Clerk (SEAL)

APPROVED AS TO FORM:


City Attorney

REVIEWED BY:


City Manager